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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,871	02/07/2000	John Ellis	081862.P160	1846

7590 09/09/2003

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EXAMINER

JUNG, MIN

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/499,871

Applicant(s)

ELLIS ET AL.

Examiner

Min Jung

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8, 10-18, 20-28, 30-38, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamami, 5,959,972.

Hamami discloses a port/link redundancy scheme in an ATM switch. Specifically, regarding claims 1, 11, 21, and 31, Hamami teaches an apparatus for re-routing user connections between first and second nodes in a network switch, the apparatus comprising: a loop-back path to provide connectivity between the first and second nodes, the first node having a primary connection and a secondary connection (main link and the backup link comprising virtual circuits, see abstract, and col. 4, lines 21-24), the primary connection carrying the user connections during a normal mode; and a switching element coupled to the loop-back path and the first node to switch the connectivity from the primary connection to the secondary connection when there is a failure at the primary connection (col. 4, lines 38-49, and col. 6, lines 52-57, and col. 7, lines 4-17).

Regarding claims 2, 12, 22, and 32, Hamami further teaches the physical connection (link) and the logical connection (virtual circuit).

Regarding claims 3, 13, 23, 33, Hamami teaches that the failure detection (col. 6, lines 28-57).

Regarding claims 4, 5, 14, 15, 24, 25, 34, and 35, Hamami teaches the rerouting control switching based on connectivity status (col. 7, lines 4-17).

Regarding claims 6, 16, 26, and 36, Hamami teaches that the backup connection is idle during normal operation (col. 4, lines 39-42).

Regarding claim 7, 17, 27, and 37, Hamami's teaching is based on ATM switching environment (Title).

Regarding claims 8, 18, 28, and 38, Hamami teaches virtual path connection (teaching of virtual circuit, and also VP/VC is inherent in ATM).

Regarding claims 10, 20, 30, and 40, the primary connection and the secondary connection having equal capacity is inherent since it is not stated otherwise.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 19, 29, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamami in view of Anderson et al., 5,838,924 (Anderson).

Hamami as briefly described above, fails to specifically teach OAM monitor. OAM is used as a mean for operation and maintenance of a network. Hamami, instead of the specific teaching of OAM, uses 'keep alive messages' on the periodic basis, to monitor the failure condition. See col. 6, lines 28-57. Anderson, on the other hand, specifically utilizes OAM cells to detect failure in VP connection. See Abstract, and col. 3, lines 23-24. Anderson's teaching is also based on the connection protection switching in ATM environment. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to implement the system of Hamami by replacing the messaging including keep alive messages with the OAM technique as taught by Anderson to utilize standard monitoring scheme in the system.

Response to Arguments

5. Applicant's arguments filed July 3, 2003 have been fully considered but they are not persuasive.

Regarding examiner's rejection based on 36 USC 102(e), applicant argues that Hamami does not disclose a loop-back path connecting a first node and a second node where the first node has primary and secondary connections, without specifically arguing why Hamami's teaching of main link and the backup link and the switching of traffic there between fails to meet the claimed limitations. It is clearly taught by Hamami that when there is a failure in the main link, data traffic is switched from the main link to the backup link. The loop-back path claimed reads on the path shown inside the switch matrix which provides connectivity between the first and second ATM switch. In the

present specification, the nature of "loop-back" is not clearly taught as to give it any meaningful weight other than to interpret it as a means to provide switching from one path to the other. The loopback path shown in Figs. 1 and 2 (and described in the specification) of the present invention is shown as a semi-circle in the path connecting second node and switch element, and does not show any specific operational aspect of loop-back, which would prevent from using a reference with similar switching scheme as the Hamami reference. Therefore, Hamami reference is deemed to teach the invention claimed.

Applicant's argument regarding the rejection based on 35 USC 103 is also directed to the same point raised. Therefore, applicant's attention is directed to the same explanation given above.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 703-305-4363. The examiner can normally be reached on Monday-Friday, 7AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 703-308-5340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

MJ
September 4, 2003


Min Jung
Primary Examiner